

ELIAS KENT KANE.

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BY

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A LETTER written in the year 1814, during the period of the second war with England and four years before the organization of the State of Illinois, folded, as was the custom before the days of envelopes, superscribed in full, round hand and addressed : " Elias K. Kane, Esq., Carthage, Smith County, Tennessee," opens a view of the early manhood days of the subject of this sketch. The letter was written from New Haven by his cousin, then a Yale student, afterwards the honored father of a noted son, and ran :

" YALE COLLEGE, April 28th, 1814.

DEAR ELIAS: After having written to you so often without receiving an answer, I do not even hope to extort one from you by this. My only wish is to close our correspondence in a regular manner and to inform you of one or two facts which you may not hear from another source. I have endeavored by every possible means to keep up the friendship which formerly prevailed between us, but in vain. You seem to have forgotten that you ever had a friend or connection, that you ever resided among civilized people, or were ever bound by the laws of civility. Ingersoll wrote you concerning his marriage. Why have you not congratulated him? If you are unwell, * * get some one to write for you. We fear some devilish Indian has tomahawked you. I repeat it: * * relieve our anxiety. Do not suffer our fears to prevail.

Elias, I have very bad news to communicate. Your father has failed, and mine has been obliged to follow him. I do not yet know for what sums, but evil report, ever magnifying, says that your father was indebted more than he could pay five hundred thousand dollars. This, of course, is false,

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though the amount was undoubtedly large. Vacation begins in a few days. I graduate in September.

Your friend and cousin,

JOHN KINTZING KANE.

P. S.—If Mr. K. be dead or absent, any friend who may open this is requested to write a letter containing the particulars to me at New Haven, Conn.

J. K. K.”

As we shall see, the correspondence did not then close; but it is possible the habit of neglect charged by the letter was the reason for the paucity or failure of letters to friends in private or public life in later years which would now be not only most interesting but invaluable in an historical sense.

The Ingersoll letter referred to bore date the 15th of February, 1814, and was written from New York. It gave a very pretty home picture of young married life at that date.

In the same year a letter addressed Kaskaskia, *Tennessee*, showing that there was some confusion in the mind of the writer as to localities, was written by Elias Kane, and ran as follows:

“ALBANY, September 20, 1814.

MY DEAR SON: I have received your two letters, the last dated the 4th ultimo, the first informing me of your having heard of my failure, and of the anxiety and concern you felt on that account. The trouble and mortification I have experienced since that event took place I shall not pretend to describe to you. To fall from the proud standing I held in society as a merchant to irretrievable bankruptcy, has so overcome and disheartened me that I shall never attempt to rise in that line again, even if I should get clear of my debts, which I see no present prospect of unless Congress should pass some general bankruptcy law and I avail myself of it. My present determination is to retire and live on a farm. My wife owns

several good ones, and her estate is my only dependence for a living. I have been brought to this dire situation from being a man of very large fortune, by this untimely war. * * * I am very glad to hear that your prospects brighten and that you expect to be able to maintain yourself and a family. The subject on which you wrote me is a very important and delicate one, and one on which your own judgment must be your guide. I have always been an advocate of early marriages, and I confess I was pleased with your communication on that subject. I think a discreet wife, with reputable connections, will prove advantageous to you in many respects. It will have a tendency to make you steady and bring your views principally to one great object, namely, the maintenance of your wife and family. But, my son, I hope you have maturely considered the boldness of the undertaking. You are very young, not more than twenty years old, without anything to rest on for your support but your own industry and talents in your profession, and although I think favorably of your capacity and talents, still I fear you have not had experience and practice enough. You have not mentioned to me the name of your intended wife. I should like to know it, and also to know something of her family and connections. May God bless and prosper you, is the wish of your affectionate father,

ELIAS KANE."

We may therefore settle upon two or three facts. First, our subject was born in 1794, not 1786, 1791, or 1796, as has been variously stated. Second, he had been a Yale student, and, prompted by a spirit of adventure and enterprise, mingled with political ambition, but not induced by necessity, had left a pleasant home and surroundings upon the Hudson River to wander to distant Tennessee; thence to the Territory of Illinois. Third, before the time of his majority he had acquired a standing in his profession and had resolved to become a bene-

dict. Of his residence in Tennessee we know no more. We may surmise that he there imbibed the love and enthusiastic admiration which he afterwards manifested and maintained for Andrew Jackson. It was in that year (1814) that the latter defeated the Creek Indians; and was appointed major general in the regular army. In the same year James Kent became chancellor of the State of New York. In January of the year following (1815) General Jackson won his great victory at New Orleans. The father of Elias Kent Kane and his father's brothers had been extensive merchants at New York, with branches at Albany, Utica and Whitesboro. They were educated men, and became engulfed, like many others, in consequence of the war. Colonel John Kane had been an officer of the Second Scotch Highlanders; but at the time of the Revolution was living above New York on half pay. He removed with his family to New Brunswick, and remained until peace was declared, when he returned to New York. He had married, in 1756, Sybil Kent, who was a daughter of Rev. Elisha Kent, a graduate of Yale, and of direct Puritan descent. Her brother was Moss Kent, the father of James, the distinguished chancellor. Elias Kane was born of the marriage of Col. John Kane and Sybil Kent, and was therefore a cousin of the chancellor. John Kintzing Kane was the son of another son of that marriage, and a cousin of the subject of this sketch. Elias Kent Kane was a second cousin of the chancellor. His family connections included the Van Rensselaers, Morrisises and Yates'.

Elias Kent graduated at Yale in 1812. He seems to have gone to Tennessee in 1813, or early in 1814. His period of residence there was short for we find him in Kaskaskia, then the capital of the Territory of Illinois, in the same year. In his dedication of the first volume of the reports of the Supreme Court of Illinois, known as those of Breese, Judge Breese

speaks of him as “his early legal instructor and friend, one who had always held the first rank at the bar of the state, and one with whom he had been associated in the practice of an honorable profession for several years; who had never proved deficient in answering any requisitions that had been made upon his abilities, and against whose integrity as a man and a lawyer no imputation had ever been made.”

On April 25, 1815, his father, in writing, mentioned having met at Albany, Judge Thomas—no doubt Jesse B. Thomas—and said: “The manner in which he speaks of you is very gratifying to me indeed. I find him to be a very warm friend of yours, and I think it not altogether improbable that from that cause his account of you is rather a partial one, but be this as it may, coming from so reputable a source, it is highly flattering to me.”

The convention to frame a constitution for the State of Illinois met at Kaskaskia in August, 1818, and Jesse B. Thomas was elected its president. Mr. Kane, who had been a judge of the Territory by virtue of an appointment from the president, was one of the five lawyers who were members of that body. He is given the credit of having been its leading spirit and of having written its constitution. It is an error, however, to speak of it as an original instrument. It was copied largely from the constitutions of Kentucky, Ohio and Indiana; but the arrangement was varied.

It may be well here to state that from the earlier settlements slavery had existed in Illinois. The French settlers became slaveholders, and immigration to the state had been largely from slave holding states. The deed of cession by Virginia to the United States, executed in 1784, provided that the inhabitants of the territory ceded who professed themselves to have been citizens of Virginia previous to the cession should have

their possessions and titles confirmed to them and be protected in their rights and liberties; and, although the ordinance of 1787 provided that there should be neither slavery nor involuntary servitude in the Northwestern Territory, it was, on the part of those holding slaves and those sympathizing with them, contended that the ordinance was in conflict with the deed of cession and therefore of no binding effect.

Elias Kent Kane had married Felicite Peltier, a lady of resident French extraction and the owner of slaves. It is possible that personal interests had something to do with his political tendencies, although it is said of him that he afterwards was the means of giving them their freedom. Article 6 of the constitution of 1818 provided that neither slavery nor involuntary servitude should thereafter be *introduced* in the state, evidently intending to recognize its existence and not to interfere with the status as it then was of slaves. It further provided that there might be a system of indenture but that no person should be bound by an agreement of indenture except when made in a state of perfect freedom and for a *bona fide* consideration, and that no indenture of any negro thereafter made or executed out of the state, or if made in the state, where the term of service exceeded one year, should be of the least validity except those given in cases of apprenticeship. It was an attempt to reconcile the ordinance of 1787 with the existing institution, and showed that a spirit of sympathy with free institutions, although faint, was then demanding recognition.

Mr. Kane became the first Secretary of State, and was an able assistant to Governor Bond, who was not a man of school training. Under date of January 27, 1820, we have a re-opening of the correspondence between John K. Kane and his cousin, notwithstanding the withdrawal in April, 1814. The writer seems to have recovered his equanimity, as he

signed himself "Your cousin and friend," and wrote: "I was very much gratified by the receipt of your letter. We had heard something of your success in life, but it was only a traveler's report—always vague and often contradictory. The newspapers had told us that you were Secretary of State, and this was almost all of which we had any certain intelligence. Your letter was of course a welcome one. It was like one of the interviews which I have sometimes had with an old classmate in renewal of an old and warm friendship, at a time when our circumstances have changed and our situations in life become fixed. I need not say, Elias, that my affection for you has been without remission. I have endeavored to watch your progress and have anxiously listened to everything which could have any connection with your prospects or any influence on your happiness or fame. Let us be correspondents. We were running *haud passibus equis*, but our object was the same. We were intimates at college. Perhaps we may one day renew our personal acquaintance on a more distinguished theater. You see I have not forgotten the feeling which we used to cherish together. That ambition which has made you eminent is not a stranger with me, but I have got rid of my sophomore dreams, and sometimes, in the *Kent moments* to which both of us are subject the hope of future distinction in the world seems as distant as the halo which plays about a wintry sun."

(The expression "Kent moments" indicates that in the family there was a trace of that melancholy which is apt to exist in those of New England birth and descent.)

The letter continues:

"I was admitted to the bar in April, 1817. In April of last year I married an old flame of mine—Jane Duval Seiper, daughter of Thomas Seiper of this city. I am settled in my house, with my office in the front room, a couple of squares from my father—very snug—nothing splendid. I have claret

and madeira for my friends, a good library at my back, and withal I am as happy in my home as man can wish to be. My practice is small but gradually increasing, my clients very generally respectable; and as yet my professional escutcheon without a spot. So much for myself—a subject on which it would be an affectation of delicacy to be silent in the introductory letter of a correspondence.”

And again, after speaking of Pennsylvania politics and showing Jackson sympathies:

“You have probably heard of the many changes which time has made in the circumstances of your relations in this part of the country; the general failure of our family as merchants; the death of Uncle Archie and Uncle John, and the marriage of a host of cousins from Canandaigua to Philadelphia. * * * Your tender of affection is warmly reciprocated by my wife. My father’s family has always loved you, and mother expects a fulfillment of your promise.”

On the 20th of February, in the month following, Elisha Kent Kane was born in this household. He became the famous explorer, and died in February, 1857.

The question of the rehabilitation of slavery in Illinois had not in the meantime died. The strength of the leaders and of the older settlers was no doubt in favor of its permanent establishment. About the time of the writing of the last letter the contest was renewed. The legislature, in 1822, after a strife, and as a result of political maneuvering in unseating a member, voted to submit to the people the question of calling a convention to revise the constitution, the object being to abolish the restrictions which have been mentioned, and establish, or re-establish, the institution of slavery. Governor Coles was then the chief executive of the state, and an opponent of slavery. D. P. Cook, Rev. John M. Peck, Morris Birkbeck, Samuel D. Lockwood, and others, were also opponents. After

a canvas known as the most vigorous of any that had occurred in the history of the state, and unexpectedly, the calling of a convention was defeated by a vote of 6,640 against a vote of 4,972 in favor. Among those who were advocates of the change were Elias Kent Kane and Theophilus W. Smith, both from New York. Of the latter, Judge Gillespie wrote: "He was an able lawyer and soon obtained a seat upon the bench of the Supreme Court of Illinois, where he would have figured pre-eminently if he had kept aloof from politics, but this he would not."

Although Mr. Kane had been of the defeated party upon the slavery question, he was soon afterwards elected to the legislature of the state and on December 10, 1824, chosen to be United States senator. In a letter of that date to Mrs. Kane from Vandalia he said: "Nothing of importance has happened since my last. We are progressing rapidly with business, and I hope to be at home in about three weeks. Were it not for giving my enemies the chance of accusing me of neglect of business I should resign my seat in the legislature, but as I have been elected to the senate I am determined to show both friends and enemies that such elevation does not make me faithless or inattentive to the interests of my constituents. About one hundred thousand state paper dollars will in all probability be shortly burned. This will make state paper more valuable. We are now making a new set of Circuit Courts and during the next week our judges will be all elected. I am very much afraid that our friend Reynolds will not be re-elected. Colonel Young, of Jonesboro, and Mr. McRoberts, who have both been my warm friends, will be elected Circuit Court judges and Col. Young will move to Kaskaskia. I am very glad that my election was placed on independent grounds. I am under no obligations to any but my own immediate friends. Theophilus W. Smith, of Edwardsville, did more for me than anybody

else. He did not sleep or rest for a week beforehand. Mr. Ross also exerted himself very much and very successfully. I shall never forget them."

A letter from his father under date of January 10, 1825, from Albany, pictures the old gentleman in an apologetic mood and also throws some light on New York and national politics. He wrote:

"MY DEAR SON: I hardly know how to commence a letter to you. It appears to me that you have taken offense at my neglect to write to you, and that you were determined to see which of us would hold out the longest. I acknowledge, my dear son, that you have cause to feel hurt at my neglect, but whether this ought to be a sufficient excuse for your not writing to me I shall leave to your own feelings to decide. I was at Philadelphia in June last, and your cousin John told me that you had mentioned the subject to him in some of your letters, with regret. I promised him that you should not have any cause to complain in future, and I meant to have written you immediately from there, but I put it off from day to day, and finally omitted to do it; but last evening I received your letter of the 12th November, introducing Mr. Hays to me. It was enclosed by your Uncle Elisha. I was much pleased in receiving it. Mr. Hays did not come as far as this place, and I therefore have not the pleasure of seeing him. You may well suppose that I felt proud and very much gratified at hearing of your highly honorable appointment to the Senate of the United States. For so young a man as you are no higher evidence could have been given of your standing. Your age was but four months within the constitutional limit." (As the constitutional limit of age was thirty, this would confirm the statement in the former letter in that regard, that he was born in 1794.) "I know of no instance where so young a man has been appointed. * * * Our legislature

now in session here, will in a few days go into the appointment of a senator to fill the place of Rufus King, whose term expires on the 4th of March next. The candidates talked of are Spencer, the late chief justice; Kent, late chancellor; Yates, late governor, and Sanford, our present chancellor. The most prominent man is Spencer, and I have very little doubt he will be appointed. Kent, if appointed, would accept, but he cares very little about it. Yates, poor man (a brother-in-law of the writer), I think stands no chance. He managed in such a way during his short administration as governor, that both parties have entirely forsaken him. He has removed back to Schenectady, and will probably spend the remainder of his days there in private life. He was most shamefully used by his own party. The influential men who favored Crawford's election, gave him the strongest assurances that he should be run with Crawford for the vice-presidency, and induced him to recommend, in his message, a suspension of the electoral law, calculating in that case that the entire vote of the state would be given to Crawford; and when Yates discovered that they had no intention of running him for vice-president and that he had been duped by them, he issued his proclamation, calling the legislature together and recommended their passing a law giving the choice of electors to the people; and the very persons who recommended this last measure to him, after the act was done, forsook him and he became completely prostrated and had not even the shadow of a party to support him. He is an honest, well-meaning man, but the truth of it is, he has not talents sufficient to be at the head of this great and important state. Clinton, his successor, possesses every requisite to fill the office, in an eminent degree. He was my candidate. I have been on the most intimate terms of friendship with him for many years past."

Mr. Kane took his seat on the 4th of March, 1825. He wrote his wife on that day: "Whilst the whole world seems to have pressed in to the capital to hear John Quincy make his inaugural speech, I have retired to the senate chamber."

John Quincy Adams had become president; John C. Calhoun became vice-president; Henry Clay, secretary of state; and William Wirt, attorney general. The senate then embraced forty-eight members, or senators from twenty-four states, of whom John Randolph of Virginia, Robert Y. Hayne of South Carolina, Thomas W. Cobb of Georgia, Richard M. Johnson of Kentucky, Thomas H. Benton of Missouri, were of those most distinguished. Mr. Kane and Judge Jesse B. Thomas were the representatives from Illinois. The old college must soon have heard of the promotion of its graduate of a dozen years' standing, for in September of the same year it conferred upon him the degree of Master of Arts, an indication that Mr. Kane's promotion was considered an honor to Alma Mater.

The records of the senate show that Mr. Kane from the beginning was active. On the 13th of December, 1825, he offered a resolution to the effect that the committee of the judiciary be instructed to inquire into the expediency of amending the acts of Congress so as to place persons and property of citizens of states admitted after September 29, 1789, upon an equal footing with regard to process and proceedings in the United States Courts with persons and property of citizens of the original states. Mr. Holmes of Maine, asked for a brief explanation of the object. Mr. Kane stated that by an act of September 28, 1789, the modes of process in the United States Courts were made to conform to those then in force in the Supreme Courts of the respective states, and by an act of May, 1792, the judges of the Supreme Court of the United States had been given authority to make rules and regulations to

which these modes of proceeding should be subject ; and as the act of 1789 had been adjudged to have application to those states only which were in existence when it was passed, the resolution was intended to place citizens of other states upon the same footing. The explanation so given is illustrative of the concise and accurate quality of his mind. Mr. Holmes said his object had been attained by the clear explanation of the mover, and the resolution was agreed to.

On February 14, 1826, a bill for a survey to ascertain a route for a ship channel to connect the Atlantic with the Gulf of Mexico, known as "The Florida Canal Bill," was under consideration. John Randolph participated in the debate, and showed, as usual, his sarcasm and bitterness. He said he was "stupid enough to doubt the constitutional power of Congress to act on a subject of such sort within the body of a state, but perhaps not ineffably stupid." Mr. Kane also joined in the debate, and said the question was one which he had not had the opportunity of hearing discussed in Congress. He did not see that a constitutional question as raised was essentially connected with the bill. The bill did not propose a specific work of internal improvement, but was intended to protect commerce. He viewed the object as no more unconstitutional than those laws which provided for the survey of the coast.

In May of the same year a bill to subscribe for stock in the Dismal Swamp canal was under debate. Mr. Tazewell of Virginia said he did not think the government possessed the authority to expend public money in furthering this, that, or the other project. Mr. Kane said he did not believe the government had the power, except in cases of most evident necessity, of exercising the right of improvement within the limits of a state, without the consent of the state—evidently forgetting the distinction between the existence of a power and the emergency for its exercise. He stated that he had given his vote on the

Louisville Canal bill without sufficient inquiry. The bill was ordered to a third reading. Among the nays were those of Hayne, Kane, Tazewell, and Van Buren. In after years Mr. Kane moved the passage of a bill to aid in the construction of the Illinois and Michigan canal, and advocated the construction of post-roads, the turning over to the states of the Cumberland road, and other measures of improvement. He was, however, in the main consistent in his adherence to the limited authority of the United States in the construction of public works within the states.

In January, 1827, the senate had under consideration a bill for the relief of the directors of the New England Mississippi Land Company, a long-standing claim of \$95,000 and upwards, growing out of the Yazoo purchase. In all the history of administration and legislation there has been probably no more corrupt act than that by which Georgia was induced in 1795 to make the attempt to dispose of 35,000,000 acres of land, largely fertile, comprising the domain of the present States of Alabama and Mississippi, to private land companies for about $1\frac{2}{3}$ cents per acre. With one exception, Robert Watkins, every member of the senate and house voting for it had been bribed. The bribery had been effected by assigning to each legislator a large number of acres and excusing him from payment until the price should rise forty or fifty times in amount. The bribes were afterwards discovered, and, in answer to indignant remonstrance, a succeeding legislature repealed the act of cession, and, having expunged from the records the evidence of its passage, the two bodies assembled in front of the state house and publicly burned the act, as if thereby to wipe out the stain. The act having been repealed and grants or deeds under it held to be void, those who had invested as purchasers and otherwise, and who had not been reimbursed by

Georgia, addressed Congress for relief; and at last were, in most cases, successful. The bill referred to was one of the bills of that character, introduced after a lapse of thirty years.

Mr. Kane reviewed the report of the judiciary committee, and urged that all claim or title of the purchasers under the act of Georgia to the Yazoo lands must be looked upon as property obtained in consequence of a fraudulent advantage over the laws of the land. He said that he spoke of it as a fraud, because, indeed, it was such, and of the most pernicious kind; corrupting, in its progress, the very fountains of legislation.

He said that after the lapse of thirty years the Yazoo speculators came before congress only upon the same footing with other claimants, and were entitled to succeed upon the grounds of justice alone. He went at length into the history of the purchase, and insisted that neither at the hands of the original purchasers nor of the New England company could any merit be perceived.

On the 3d of December, 1827, Mr. Webster had become a member of the senate. In February of the following year, upon a question as to the revision of the rules involving the powers of the vice-president and the right of appeal from his decisions, Mr. Kane said :

“The question is : Has the president of the senate the right to call a senator to order for words spoken in debate?”

He insisted that the vice-president might preside over but should not interfere with the deliberations of the senate, and that if the vice-president might designate what words were in or out of order the discussions would not be free, and the states would no longer be represented in their sovereign capacity.

He voted in the same year for a bill to grant a township of land to Kenyon College, Ohio. His grounds were rather

peculiar. He said he believed it practicable to reduce the expenses of an education at a regular college within the competency of the great body of the farmers of the country and of men in ordinary circumstances, and other pursuits in life ; and therefore favored sustaining Kenyon. And in January of the next year he voted for a bill to allow sections of land in Mississippi to be surrendered and other lands entered, because the grants had proved useless.

In the course of a speech made in 1828, on a bill for graduating the price of public lands and ceding the residue to the states in which they were situated, Mr. Kane insisted that the public lands should be managed with reference to the protection of the revenue. He said :

“I am not, sir, about going over the ground so often occupied by others, by insisting that the holding of lands by the Federal authorities within the bosom of the new states is in violation of their sovereignty and impairs that equal footing in all respects which is secured to them by the terms of their admission into the Union. Whatever consideration such arguments may be entitled to, it is neither my duty nor inclination here to repeat them. My positions are that the public lands are to be converted into public revenue, either by sales for money or by such donations to actual cultivators as shall increase the class of consumers of articles paying a duty into the treasury, or by such donations of parts as shall facilitate the sales of the remainder ; and that any other mode of disposition, or any delay in the disposal of them, not essential for revenue, is a breach of solemn compact, is contrary to the evident intent of the constitution, and is a high violation of the political rights of the states.”

And again : “ Out of nearly 260 millions of acres to which the Indian title is extinguished you have disposed of, in the course of thirty years, about 19 millions ; and in the mean-

time brought your treasury further in debt. And what is now the language of the men at the head of affairs? The system is immovable. It has operated as a legislative bounty upon agriculture; and means are devised to check the operation of the system, poor as it is, because the new states, if left to cultivate the advantages which God and nature have provided for them, will drain off the surplus population of the old states and thereby prevent those states from becoming manufacturers and increasing their capital. I am not now addressing to the senate any objection to the project; but I wish to be distinctly understood as protesting against the power of this government so to use the soil within the new states as to check the march of those states through natural avenues to wealth and commerce. If Providence has assigned to them a better soil and milder climate, or superior advantages of any sort, has the constitution conferred upon you the power, directly or indirectly, to control the progress of migration thither by withholding lands from market, unless the state of the national exchequer manifestly, urgently and undeniably requires it?"

In March, 1829, Andrew Jackson became president, and thereafter was cordially and heartily supported by Mr. Kane. John C. Calhoun became vice-president, and Martin Van Buren was made secretary of state. Jesse B. Thomas had been succeeded by John McLean, who, in turn, was succeeded in 1831 by John M. Robinson.

In the latter year Mr. Kane was elected to serve a second term as senator without practical opposition.

In March, 1834, the senate, after a three months' debate, passed a resolution, having reference to the action of the president concerning bank deposits, to the effect that he had assumed to himself authority and power not conferred by the constitution and laws, but in derogation of both. The president replied on the 15th of April with a so-called protest, with

the demand that it should be entered on the journal of ^{the} senate. A resolution was offered by Mr. Clay in substance that the president had assumed authority not conferred by the constitution or laws, but in derogation of both. Upon this question Mr. Kane spoke at length in the negative. He cited what he claimed to be precedents in our own history and reviewed the privileges of Parliament. His contention was that the protest was not an interference with any business pending before the senate. The following are extracts from his remarks :

“ The president says in his protest, with regard to the condemnatory resolution, ‘ it asserts no legislative power ; proposes no legislative action.’ To my infinite surprise, one or two senators have declared that legislative action was intended. The discussion on the resolution was carried on here for about four months. It was repeatedly asserted, by friends of the administration, as an argument against the continuance of the discussion and the adoption of the resolution, that it proposed no legislative action ; this was never denied ; nor did any one senator within my hearing intimate, during the whole period, that any legislation was to grow out of its adoption. This resolution was referred to the committee on finance, a most appropriate committee to report the plan of action. Yet the committee reported no legislative proposition ; in truth, sir, they disregarded this resolution, altogether, and did not report upon it at all. Already have five months of the session elapsed, and not a word about the legislative action has been heard, except the mere assertion referred to, in contradiction to the president’s allegation. Sluggish legislators, indeed ! One prediction I will venture upon, that, if the senate continues its session five months longer, we shall not see a legislative proposition brought forward in this body to carry into effect any object whatever connected with this resolution. And for the most decisive of all reasons, viz : in its very nature it cannot

be the subject of legislation. If it can, I should be glad to be informed how.”

“ I cannot conclude, sir, without remarking upon the unkind criticisms of gentlemen upon the allusions which the president makes, in justification of his patriotic motives, to the enduring memorials of that contest in which American liberty was purchased, which he now bears upon his bosom. This, too, is charged to have been done with the low design of enlisting the feelings of the people on his side in this controversy, if controversy it must be called, and some doubts have been expressed as to its truth. *Enumerat vulnera miles*. Let the soldier count his wounds without reproach. If this be crime, and a breach of privilege too, is there a revolutionary officer or soldier living, who is not equally guilty? Search your records and ransack the pigeon holes of your secretary’s office, find the name of every one who has presented a petition to you, and then send your sergeant-at-arms to bring them into your chamber. Arraign, try, condemn, punish and incarcerate them ; then put a tongue in every wound you see, and teach it to sing hosannahs to the all-pervading, all-absorbing, transcendent, omniscient, omnipotent privileges of the senate. It is the duty of patriotism to ask the remnant of our revolutionary veterans to leave us all the evidences of the hardships and dangers of the struggle through which they passed. Never did Desdemona listen with a more greedy ear to the tales of Othello’s disastrous chances, than we, in our childhood, to the recitals of the battles, sieges and fortunes of our revolutionary heroes : ‘ So well their words become them as their wounds ; they smacked of honor both.’ When they have gone let us repeat their stories to our progeny, till we see the tear of gratitude glistening in their eyes, and their countenances lighted up with a glow of patriotism direct from the heart. Then turn to them the other side of the tapestry. Show them

the envy, malice, uncharitableness, and mad ambition of the wretch, in human form, who never periled a hair in his country's service, stretching out his sacrilegious hand to snatch a laurel from the silvered brow of the aged warrior, sinking to his eternal rest.

“ May our venerable president live to count his wounds, ‘ longer than I have time to tell his years ’ ; and when old time shall lead him to his end, ‘ patriotism, goodness, and he, fill up one monument.’ ”

Mr. Webster also participated in the debate, in which he said : “ I know not who wrote this protest, but I confess I am astonished, truly astonished, as well at the want of knowledge which it displays of constitutional law as at the high and dangerous pretensions which it puts forth.”

And again : “ Has any English sovereign since Cromwell's time dared to send such a message to Parliament? Sir, if he can tell us that some of us disobey our constituents he can tell us that all do so, and if we consent to receive this language from him there is but one remaining step and that is if we thus disobey the will of our constituents he should disperse us and send us home. In my opinion, the first step in this process is as distinct a breach of privilege as the last.”

The resolution of Mr. Clay was adopted by a vote of ayes, 26, nays 20. Among the latter were Mr. Kane.

Sufficient has been shown to indicate Mr. Kane's activity in the senate and his desire to fully represent the wishes and supposed interests of his constituents. That he did so systematically and persistently there can be no doubt. During the whole period from 1824 until the close of his career in all questions in which the interest of Illinois was involved he bore a prominent and leading part. His position upon the committee of public lands gave him an opportunity to bring for-

ward and carry into effect various measures in which the people of the west were especially interested.

As a debater he exhibited great skill in the conciseness and perspicuity with which he stated questions. He was an accurate thinker, and while his speeches indicated no flights of oratory, he was earnest and eloquent. He was a man of good judgment, kindly, courteous, and in debates in a time when party spirit ran high and motives were not allowed to go unchallenged, was not drawn into acrimonious discussions or personal controversies.

His father seems to have continued his interest in public affairs. A letter written in February, 1826, indicates that the father was not without ordinary ambition, and the son also cherished an ambition not generally known.

“ALBANY, FEBRUARY 5th, 1826.

MY DEAR SON: Will the judiciary bill pass the senate, and if it does do you think that Kent stands any chance of being appointed one of the judges? (Kent had been retired from the chancellorship in 1823.) I fear he will not, as we have one judge from this state now, and I hardly think they will be willing to give us two. But perhaps they may, as Kent is a very conspicuous man.” (This desire, perhaps, has not been attributed to Chancellor Kent.) “You wrote me some year or so ago that you should like to be appointed yourself. He will do what he can for you if you wish him.” (Kent had been a Federalist and at the time of the letter John Quincy Adams was President.) “My great object is to obtain the postoffice in New York; but so long as Kent is unprovided for I fear my chance of success is a slender one. If he was out of the way I think I could, with your aid, bring forward an influence that would give me a fair share of success. My situation, I am sorry to say, is becoming more needy daily. The

extreme pressure of debt has operated very much against me. I was heavily in debt and had been depending on real estate in this city to pay it with, which has fallen, and I have been compelled to make sacrifices to raise money, and my debts still press upon me ; but I have no doubt of being able to pay the whole and of keeping something over towards the support of the family.”

A letter from Illinois, distant as it was from New York, shows that the subject of postoffices was of interest then as now to all classes of people.

“ATLAS, Illinois, Nov. 2d, 1831.

MY DEAR FRIEND: A variety of circumstances has prevented me from troubling you with any communication from me for some time past. Let me assure you there is no diminution of friendship in me. There is a well-grounded confidence which never will be lost. I am getting old ; have entered my 51st year ; have retired to my farm, and have resigned the postoffice.” (A rare instance.) “I hold that of postmaster at Atlas, and the people have joined me in recommending William Ross as a suitable person to fill that station. I believe no other one is wishing it. If you will have the goodness to speak to the postmaster general on the subject you will lay me under additional obligations. Friend Elias, you are placed as a sentinel to guard the liberties of our great republic. I have the fullest confidence in your integrity, and never have lost one atom of that warm attachment which grew out of your fatherly attention to my son. I never can forget you and your good lady. I wish and hope that the choicest of Heaven’s blessings will attend you and your good family through this world. I never calculate any more to take an active part in politics. I leave that to those who have satisfaction in serving their country. My active years are past. But you are in the

full tide of success. I cannot in every respect feel the unison of sentiment as respects our national concerns as you do. That you know. But I allow you to be the better judge, and feel perfectly safe in such hands, because I am confident that you wish to transmit to posterity the blessings of a free government. I have long since expected to be reformed out of office. I suppose and confidently believe that you have kept me in the postoffice. I am much obliged to you for your friendship and hope that in the course of events I shall be able to reciprocate every kind act of yours. I ask nor want nothing of a public nature, nor do I want any of my children to be engaged in a political life. I am trying to mold their minds into retirement as much as possible. I have a chill and fever on me at this time, and beg you to excuse inaccuracies, for I am almost ready to go to bed. Please write me and I will esteem it a choice favor. Give my best respects to your good family and accept for yourself the best wishes of an old friend.

LEONARD ROSS."

Senator Kane died at Washington on the 12th day of December, 1835.

The *National Intelligencer*, of the 14th of the same month, contained the following notice :

"It is with the deepest regret that we have to announce the decease of another member of the national legislature, being the third, whose departure from life we have been called to deplore within the brief space of five days after the assembling of Congress. The Hon. Elias Kent Kane, a senator from the State of Illinois, expired at the residence of his father in this city on Friday night last after a severe illness of a few days, aged about forty-three years.

"He was an urbane and amiable gentleman, estimable in his

domestic and social relations and a useful and respected member of the senate in which elevated body he had held a seat ten years, the strongest proof of the high respect in which he was held by his fellow citizens at home.

“Mr. Kane had not fully recovered from a bilious fever when he set out for this city, and the extreme rigor of the weather to which he was exposed during the greater portion of his journey brought on the severe relapse soon after his arrival which terminated his life.”

The journey from Kaskaskia to Washington was then usually made by steamboat to Cairo, thence up the Ohio to Wheeling, and from there by stage to the capital.

The difficulty and severities of such a journey in winter will hardly be appreciated at the present time. To the senator they proved all too perilous. His funeral took place in the old senate chamber, now occupied by the Supreme Court, and was attended by the President and heads of departments. The committee of arrangements was composed of Senators Benton, of Missouri, Clayton, of Delaware, Hendricks, of Indiana, Crittenden, of Kentucky, and Wright, of New York. His remains were afterwards removed to Illinois and placed in a vault upon his family homestead.

So lived and passed away a citizen of Illinois. To his memory no public monument has been raised, except in the name of the county, now prosperous and wealthy, which lies upon the Fox river. As with his eloquent opponent in the contest for a change in the constitution, Daniel P. Cook, a municipality, a political agency of the state, will perpetuate while most of the inhabitants will remain in ignorance of the source of the name. Illinois has been profuse in such manner of recognition; instance, Bond, McLean, Ogle, Whiteside, and other counties.

Tall, florid, of kindly expression, scholarly, but affable, Mr. Kane was deservedly popular even to the degree of commanding the support of political opponents. He was young to have accomplished so much. He was not alone among vigorous intellects, although of different mental type. Illinois has not at any period of its history been wanting in able men. Other contemporaries of Mr. Kane might be mentioned without invidiousness, but their names will be readily recalled. His position upon the question of slavery should be judged by the light of party influences, personal surroundings and the times. Motives should not now be challenged. He was a public man of honesty and sincerity of purpose, loyal to his constituency, and one of those who laid the foundations upon which the State's proud structure rests.

For the lawyer, legislator and man, let there be a revival of recollection, and to his memory let further honor be given.

GEORGE W. SMITH.

January 24, 1895.



